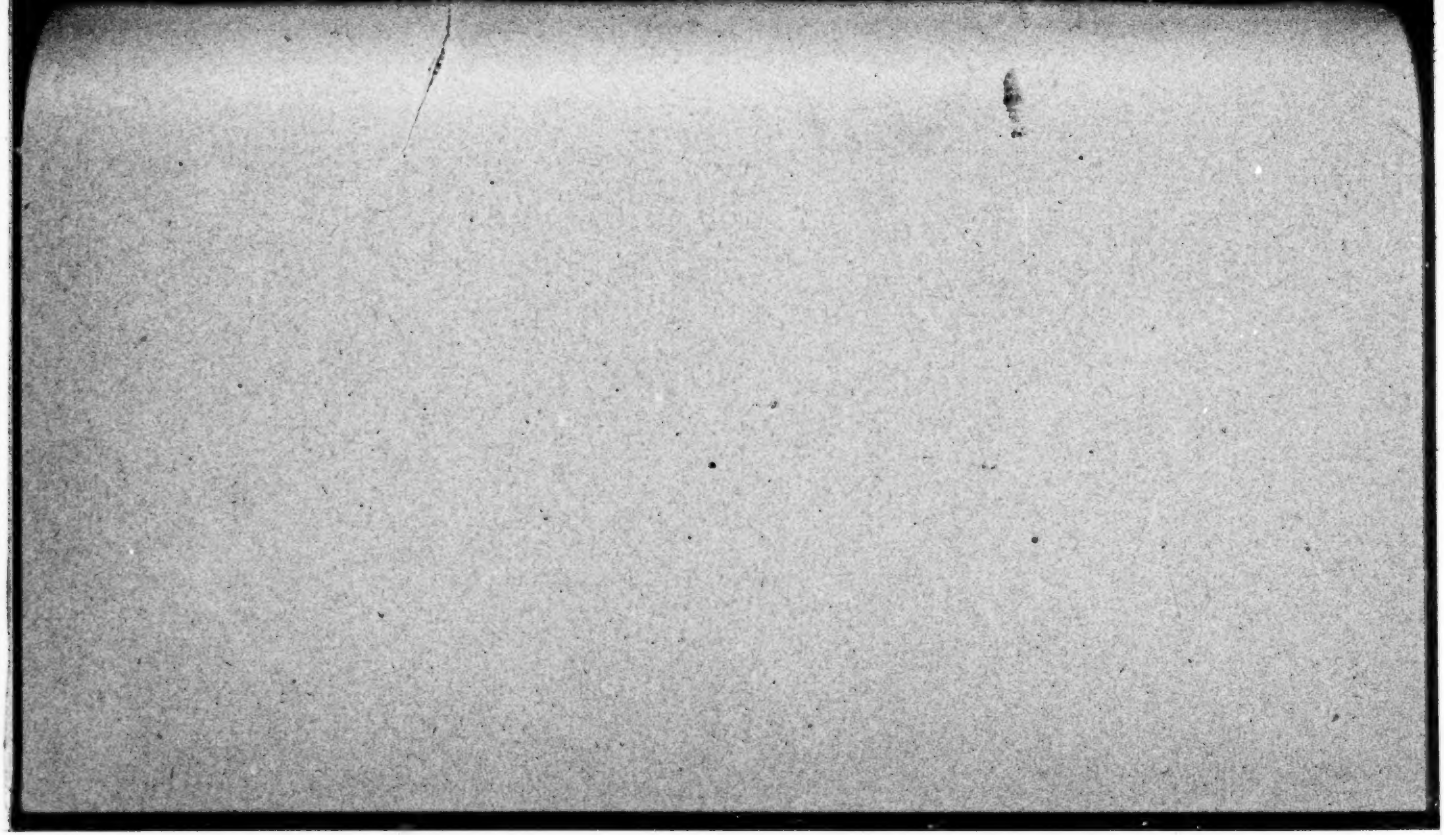

FILE COPY.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1906.

Office Supreme Court, U. S.
FILED.
JAN 14 1907
JAMES H. McKENNEY
CLERK

No. 149.

JAY DELAMATER, PLAINTIFF IN ERROR,

vs.

THE STATE OF SOUTH DAKOTA, DEFENDANT IN ERROR.

IN ERROR TO THE SUPREME COURT OF THE STATE OF SOUTH DAKOTA.

BRIEF FOR THE DEFENDANT IN ERROR.

PHILO HALL,
Attorney General, South Dakota.
AUBREY LAWRENCE,
Assistant Attorney General.

JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C. 24761

(19,963.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1906.

No. 149.

JAY DELAMATER, PLAINTIFF IN ERROR,

vs.

THE STATE OF SOUTH DAKOTA, DEFENDANT IN ERROR.

BRIEF FOR DEFENDANT IN ERROR.

STATEMENT.

Counsel for the plaintiff in error having kindly consented to the filing of a brief by the attorney general's office of South Dakota on behalf of the defendant in error, and this honorable court having granted leave to counsel for defendant in error to file a further and additional brief, other than the one heretofore filed by S. M. Howard in behalf of the defendant in error, we herewith respectfully present the following:

We desire to add nothing further to the statement of the case except to especially direct the attention of the court to several facts established by the record and admitted and conceded by the plaintiff in error, which we believe are important in considering the constitutionality of the legislative act in question, as follows:

FIRST. It appears that the defendant, the plaintiff in error, does not assert as a defense, or as a means whereby he can take advantage of the interstate commerce clause, that he is a non-resident of the State of South Dakota, but, so far as the record discloses, is a citizen and resident of the State of South Dakota.

SECOND. Regardless of the place of residence of the defendant, it is admitted and conceded and established by the evidence in the case that the defendant, the plaintiff in error, transacted the business in question entirely within the boundaries of the State of South Dakota, and not only made an offer to sell and a solicitation prohibited under the terms of the act in question, but engaged in the business of offering for sale intoxicating liquors, and soliciting such sales, and did voluntarily engage in such business within the boundaries of the State of South Dakota.

THIRD. That it appears by the record that the license in question is one imposed upon the soliciting of orders involving retail transactions and not wholesale as between dealers resident and non-resident, or where both dealers were resident, and that the business in which the plaintiff in error engaged was a business of offering for sale at retail within the State of South Dakota, and soliciting orders for the sale at retail, of intoxicating liquors within the boundaries of the State of South Dakota.

FOURTH. That it is disclosed by the record and established by the testimony that the defendant, the plaintiff in error, voluntarily submitted his person to the jurisdiction of the State of South Dakota for the assumed permanent business of engaging in such retail liquor trade, which was prohibited by the legislature of the State of South Dakota, unless such business was conducted in the manner and form as pre-

scribed by the legislature and under the restrictions imposed by the legislative act in question.

Upon these facts, therefore, the defendant in error begs leave to submit the following legal propositions:

FIRST. That, as a general principle, the law in question is a license law and not a tax law.

SECOND. That the law is one within the police power of the State, and thus subject to different rules, whenever jurisdiction attaches, than the ordinary goods of commerce.

The foregoing being established, it necessarily follows:

(*a.*) That the interstate commerce clause is not directly involved, because the defendant engaged in a business within the State which consisted of performing acts which led up to the sale and delivery of intoxicating liquors which could only be done in the State under the methods prescribed by the act in question. In other words, that the solicitation was a part of the sale, and the solicitation, fully occurring within the State, is subject to the police powers of the State.

(*b.*) That the law in question is an occupation or privilege license law over which, as concerns the sale of goods within the police power of the State, the State has complete jurisdiction without it being considered an interference with the interstate commerce clause.

BRIEF.

First. The law is a license law and not a tax law.

We apprehend it is thoroughly established by this court that the mere fact that a law of this character results in bringing a certain revenue to the State does not necessarily stamp such an act as a revenue or tax law, but that the real test is as to whether or not the purpose of the act was to secure revenue or regulate and control.

As indicating the established law, gathered from the decisions of this court and others upon that proposition, permit us to cite the following:

"According to the great weight of authority, the power inherent in the legislature to regulate the exercise of privileges and of following pursuits and occupations does not fall properly within the taxing powers, but falls within the police powers. License fees exacted by the general laws regulating the traffic in intoxicating liquors are not taxes within the meaning of any constitutional provision relating to taxation, but are nothing more than the price paid for the privilege of doing a thing, the doing of which the legislature has a right to prohibit altogether. These laws are regarded as police regulations enacted with a view of regulating and restricting a business regarded as evil in its effects upon society. It does not follow that because the license is large or because it may become a part of the public revenue, it is therefore a tax."

17 Ency. of Law, 2d ed., p. 223, and citations.

"Licenses imposed on the liquor traffic and other occupations which call for regulations by the State, do not cease to be licenses proper even though they yield a revenue in excess of that required for the purpose of regulation."

21 Ency. of Law, 2d ed., p. 774.

"Occupation taxes are not property taxes."

Ibid., p. 775.

The interpretation of the South Dakota courts upon the legislative act in question, which we assume will be considered by this court, is to the same effect:

"Pursuant to the will of a majority, aroused to consciousness of the fact that the retail liquor traffic is an expensive evil, resulting in irreparable injury to society, entailing upon the public the burden of increased pauperism and additional criminal prosecutions, often to no avail, the legislature deemed the license system to be the most effective scheme by which to restrict, regulate and control the business, and the law enacted unmistakably partakes of the nature of a police regulation designed to impose upon the dealer the burden of liquidating, so far as practicable, the damage thus occasioned. The primary object of the law, as specifically declared by the title, is to 'provide for the licensing, restricting, and regulation of the business of the manufacture and sale of intoxicating liquors;' and the fact that the general revenue is incidentally increased is not sufficient to invalidate the act, or subject the same to any constitutional objection. * * * The occupation being one which the law-making power had the right to prohibit entirely or partially suppress by the issuance of a license under specified restrictions to persons only who possess certain moral attributes, the money thus received *is in no constitutional sense a tax*, and the same may be rightfully devoted to such public use as the legislature may direct, independently of the expense occasioned by the traffic, and without regard to any of the considerations which prompted the license enactment."

State *v.* Beuchler, 10 S. D., 156.

In addition to the foregoing, and as practically controlling, we desire to quote the title of the act in question:

"SECTION 1. That section seven of chapter 72 of the Session Laws of 1897, the same being an act relating to the sale of intoxicating liquors, entitled 'An act to provide for the *licensing, restricting, and regulation of the manufacture and sale* of spirituous and intoxicating liquors' be amended to read as follows."

See Session Acts, South Dakota, 1901, p. 246.

The law is one within the police powers of the State, and thus subject to different rules than laws concerning the ordinary goods of commerce.

The law in question has been established to be a law restricting and regulating an article declared injurious by the legislature of the State, which we apprehend has the authority to declare what subjects are so deemed injurious and harmful, and thus within the police powers. The text writers lay down the following general principles:

"In order that social life may exist, that human faculties may be developed, and the progress of civilization be made possible, a certain minimum of physical well-being is necessary. The minimum varies in different periods, and rises with advancing civilization until it includes a certain standard of comfort. Closely connected with physical well-being is a recognition of elementary moral standards, and a repression of at least the outward manifestations of vice and immorality, in so far as the maintenance of these physical and moral standards depends upon conditions affecting a considerable number of people alike, the government attempts to secure them to the public and to the individual. Criminal justice, the proprietary action of the State, and the police power, are equally enlisted for this purpose.

"The exercise of the police power for the protection of safety, order, and morals constitutes the police in the primary or narrower sense of the term. It is a power so vital to the community that it is often conceded to local authorities of limited powers. It is the police power in this narrower sense of the term which the Supreme Court of the United States concedes on principle to the States, even where its exercise affects interstate and foreign commerce."

Freund on Police Powers, sec. 10, p. 7.

Regardless of the Wilson act, which more fully placed intoxicating liquors within the police power of the State, this court for many years sustained the doctrine laid down in the celebrated License Cases:

"It may, then, be assumed on authority which does not admit of doubt, that a State has a right to regulate its internal

commerce, and to provide for the health and government of its citizens by suitable laws. That such regulations are considered by this court to be police laws will not be doubted. These propositions are sustained by high authority. The State possesses the undeniable right to regulate its internal trade, and to maintain municipal or police regulations to protect and promote the welfare of the people. That a law restraining an indiscriminate traffic in wines and spirits, and designed to protect life and health by promoting temperance and sobriety, is a police law cannot be questioned."

License Cases, 5 How., 523 (12 Law ed., 265).

"In conferring upon Congress the regulation of commerce it was never intended to cut the States off from legislating upon all subjects relating to the life, health and safety of their citizens."

Sherlock *v.* Alling, 93 U. S., 99 (23 Law ed., 819).

"The question as to the constitutional power of the State to prohibt the manufacture and *sale* of intoxicating liquors is a settled one in this court."

Foster *v.* Kansas, 112 U. S., 201.

If it is a settled question that the State has the constitutional power to prohibit even the manufacture and sale of intoxicating liquors, then it must undoubtedly have the power to regulate and restrict the sale of intoxicating liquors, and as a part of that power has the undoubted constitutional right to regulate and control any act in furtherance of such sale, or any offer of sale completed within the State boundaries which would lead up to the sale, which is restricted and controlled by the legislative act. This is not an interference with the interstate commerce clause and cannot be said to act before the goods come within the jurisdiction of the State, because under the facts in the case at bar the person who commits the act in question has voluntarily appeared within the boundaries of the State and submitted himself to the laws of that State, and has voluntarily chosen to come within the State to engage in the business which is restricted and controlled under the constitutional authority of the State.

The foregoing being established, the act in question does not conflict with the interstate commerce law for two reasons:

(*a.*) That the acts involved are committed by a person within the jurisdiction of the State.

(*b.*) Because he voluntarily engages within the State in an occupation prohibited under the police power of the State.

As to the first proposition, permit us to quote the following, not as authority to this honorable court, but as expressing, in the language of the text writers, the theory which we might express in our own words upon which the State, the defendant in error, relies:

"The taking of the order by the plaintiff for intoxicating liquors *was a part of the contract of sale.*"

Lang *v.* Lynch (New Hampshire), reported in 4 L. R. A., 831.

The author of the notes to the L. R. A., in considering the case of Brown *v.* Weiland, 61 L. R. A., 418, and in commenting upon the New Hampshire licence cases, which he holds are renewed authority since the passage of the "Wilson act," sustains our position that the soliciting is a part of the sale. Of course there can be no question but that the actual sale within this State of these goods is within the police power of the State, and the plaintiff in error does not pretend to dispute that proposition. Our position is that if the sale is within the police power of the State the incidents of the sale are, and the authority of these notes takes the same position in the following language:

"The prohibitory or regulative statute of the forum may, however, either in express terms or by construction, apply to, and render illegal, acts done within the State in *furtherance of the sale, although the sale is technically consummated in another State* by the law of which it is valid. When such is the case, it is not necessary for the court of the forum to resort

to the ground of public policy to justify its refusal to entertain the action, but the action fails because *one of the steps leading to the consummated contract and sale* had its situs at the forum, and comes within the condemnation of the statute of the forum."

The identical question in the case at bar is not involved in the last citation, but the point to which we wish to direct attention is established by that authority, namely, that a solicitation is an act in furtherance of the sale, although the sale is technically consummated in another State, and such solicitation or offer to sell is one of the steps leading to the consummated contract and sale, and such steps and acts were taken voluntarily by the defendant, the plaintiff in error, within the boundaries of the State of South Dakota and against its legislative act passed by virtue of its police power.

The State courts have also sustained the same theory. In *Ex parte* Taylor, 58 Miss., 478, it is said that drummers are mere solicitors of orders for others and differ in no respect from clerks or salesmen except that they are ambulatory in their operations and do not usually carry or deliver the goods sold.

"The residence of the person who pursues the business is immaterial."

Bates *v.* Mobile, 46 Ala., 158.
Mason *v.* Cumberland, 92 Md., 451.
Washington *v.* McGeorge, 146 Pa. St., 248.

But as conclusive upon this proposition, and we apprehend as settling it beyond question, permit us to quote from the opinion of this court in the case of Ficklen *v.* The Taxing District of Shelby County, a Tennessee case coming from the same district as the celebrated Robbins case, decided in 1891, and reported in 145 U. S., page 1:

"A State legislature may tax trades, professions, and occupations in the absence of inhibition in the State constitution in that regard, and where a resident citizen engages in general business subject to a particular tax, the fact that the business

done chances to consist, for the time being, wholly or partially in *negotiating* sales between resident and non-resident merchants of goods situated in another State, does not necessarily involve the taxation of interstate commerce, forbidden by the Constitution."

It thus seems to be well established by the ruling of this court that without question where a resident citizen engages in a general business, subject to a particular tax, the act levying that tax or license is not void because of conflict with the interstate commerce act because the business consists in negotiating sales between residents and non-residents.

In the case at bar the facts are conclusively established that the defendant, the plaintiff in error, was within the State which had the legislative act in question; that he had submitted himself to its jurisdiction, and there is an entire absence of any showing that he was a non-resident, which would be necessary upon the part of the plaintiff in error if he desired to maintain any theory that such non-residence would change the right of the legislature to impose this license, and goes further in showing that the act of negotiating sales, such as exists in the case at bar, is as fully within the jurisdiction of the State as would the completed sales be or the delivery of the goods involved in such sales. So that it appears, we believe, by undoubtedly the weight of authority that the offering for sale, the soliciting for orders and the negotiation for sales, such as took place in this case, constitute acts in furtherance of a sale, within the State, of intoxicating liquors, and leads to the sale of liquors in the State in opposition to the regulation and control as provided by the State laws and cannot be in conflict with interstate commerce, because it is not in the slightest degree similar to the case of an order sent by mail by a resident to a non-resident dealer, but is an act committed by a person within the boundaries of the State, which leads to the result controlled, regulated, and, in some instances, prohibited by the State law of the jurisdiction where the defendant voluntarily placed himself.

An Occupation or Privilege License.

As a general proposition and principle the legislature has the power to impose occupation licenses or taxes.

"The power of the legislature to impose license fees on the occupation of manufacturing and selling liquors is undoubted, and it may also define what are liquor dealers, within the meaning of the laws."

17 Ency. of Law, 2nd ed., 222, and citations.

"The residence of the person who pursues the business is immaterial."

Bates *v.* Mobile, 46 Ala., 158.
Mason *v.* Cumberland, 92 Md., 451.
Washington *v.* McGeorge, 141 Penn. St., 248.

"The State may, in the exercise of their police power, in any way regulate the sale within the State of intoxicating liquors, either by prohibiting the sale entirely; * * * *or by prohibiting the soliciting or taking of orders in the State for the interstate sale of liquors to unlicensed dealers in the State.*"

Cyc., vol. 7, p. 437-8-9, and citations.

The State courts have concurred in that principle.

"Paragraph 2550 of the general statutes of 1889 is a valid police regulation. That act is not a regulation of commerce among the States simply because it may incidentally affect commerce.

"The plaintiffs in error contend that this statute is either inapplicable to the case at bar or that it is unconstitutional so far as the same prohibits the solicitation of orders by non-residents; that in this respect the act attempts to regulate or restrict interstate commerce. *This contention is not tenable. The purpose of the act under consideration was to restrict the sale of liquors, and this may be lawfully done, although interstate shipment may be thereby incidentally affected.* Railway Co. *v.* Haber, decided March 14, 1898, 18 Sup. Ct., 488; Plumley *v.* Com., 155 U. S., 461; Geer *v.* State of Connecticut, 161 U. S., 534. * * * Under this statute both the soliciting of an order and the making of a contract of sale

are a misdemeanor. The plaintiffs do business in St. Joseph. Their soliciting agent is also a resident of that State. He came to Kansas, and procured an order of Weisman for intoxicating liquors. The order was transmitted to the plaintiffs for approval or rejection. * * * The soliciting of the order was a violation of the letter and spirit of the statute. *The section under consideration is a valid police regulation, and is not an infringement upon the rights of Congress to regulate interstate commerce.*"

Westheimer *v.* Weisman, 60 Kansas, 753; 54 Pac. Rep., 332.

This court in the earlier days, at least by inference, sustained this principle. In the case of the People *v.* Walling, 116 U. S., 446, involving a statute practically identical with the South Dakota statute, except that the tax imposed was a tax upon non-resident solicitors, this court said:

"It is suggested by the judge who delivered the opinion of the supreme court of Michigan in this case, that the tax imposed by the act of 1875 is an exercise of the legislature of Michigan of the police power of the State for the discouragement of the use of intoxicating liquors and the preservation of the health and morals of the people. *This would be a perfect justification of the act if it did not discriminate against the citizens* and products of other States in the matter of commerce between the States, and thus usurp one of the prerogatives of the national legislature."

Again it said:

"*Such legislation may, indeed, indirectly or incidentally affect trade* in such products transported from one State to another State. But that circumstance does not show that laws of the character alluded to are inconsistent with the power of Congress to regulate commerce among the States. For, as said by this court in Sherlock *v.* Alling, 93 U. S., 99 (23 Law. Ed., 819): 'In conferring upon Congress the regulation of commerce, it was never intended to cut the States off from legislating on all subjects relating to the health, life, and safety of their citizens, though the legislation might indirectly affect the commerce of the country. *Legislation, in a great variety of ways, may affect commerce and persons*

engaged in it without constituting regulation of it within the meaning of the constitution. And it may be said, generally, that the legislation of a State, not directly against commerce or any of its regulations, but relating to the rights, duties, and liabilities of citizens, and only indirectly and remotely affecting the operations of commerce, *is of obligatory force upon citizens within its territorial jurisdiction, whether on land or water or engaged in commerce, foreign or interstate, or in any other pursuit.*"

Plumley *v.* Massachusetts, 155 U. S., 471 (39 L. Ed., 227).

Again:

"To treat as condemned by act all agreements under which, as a result, the cost of conducting an interstate commercial business may be increased would enlarge the application of the act far beyond the fair meaning of the language used. *There must be some direct and immediate effect upon interstate commerce in order to come within the act.* The State may levy a tax upon the earnings of a commission merchant which were realized out of sales of property belonging to non-residents, and such a tax is not one upon interstate commerce because it affects it only incidentally and remotely, although certainly."

Hopkins *v.* United States, 171 U. S., 591 (43 L. Ed., 296).

As the theory of the defendant in error is expressed in language better than we could express it, and not because we desire to offer a State decision as authority for this court, permit us to quote language particularly applicable to the case at bar:

"The citizen of another State may come into Pennsylvania when he will, and where he will, stay as long as he chooses, open as many places for the sale of his goods as he may see fit, and enjoy the same measure of freedom in regard to the conduct of his business as a native citizen. But when he comes within the State, permanently or temporarily, he is under the protection of its law, and *the correlative duty of obedience rests on him.* His rights are equal to but not above those of the citizen. (Neither would he have any more

right to solicit orders for sale than the citizen.) * * * To hold the contrary would be subversive of law and order, and would render the possession of the police power useless to the State. * * * If it is true that such person is the ward of the Federal Constitution, engaged in interstate commerce, with the power of the Government of the United States interposed between him and the police power of the State, it must be admitted that we have stumbled on a startling and unlooked for result of the investment of the General Government with the power to regulate commerce. Fortunately, the Federal courts do not so hold. They distinctly recognize the police power of the States and their right to forbid altogether the sale of such articles as are injurious."

Commonwealth *v.* Gardner (Pa.), 7 L. R. A., 669.

"Unlike other trades and employments, which it is the right of the citizen to pursue, undisturbed by arbitrary legislative interference and control, the person who engages in this, must, within the limitations above indicated, do so subject to such disadvantages and restraints as may be prescribed by the law making power which authorizes it."

State *ex rel.* Henshall *v.* Ludington, 33 Wis., 107.

This court has also said:

"The question whether a given State law is a lawful exercise of the police power is still open, and must remain open to this court. Such a law may forbid entirely the manufacture and sale of intoxicating liquors and be valid. Or it may provide equal regulations for the inspection and sale of all domestic and imported liquors and be valid. But the State cannot, under the Congressional legislation referred to, establish a system which, in effect, discriminates between interstate and domestic commerce in commodities to make and use which are admitted to be lawful."

Scott *v.* McDonald, 165 U. S., 58 (41 Law. Ed. 632).

If the law may constitutionally forbid entirely the manufacture and sale of intoxicating liquors, and may provide regulations for the inspection and sale, why may it not provide regulations for the person who comes within the juris-

diction and violates such regulations? And, as said by this court in Ficklen *v.* Taxing District:

"A State legislature may tax trades, professions, and occupations * * * The fact that the business done chances to consist for the time being wholly or partially in negotiating sales between resident and non-resident merchants of goods situate in another State does not necessarily involve the taxation of interstate commerce forbidden by the constitution."

Therefore, being to all intents and purposes a resident citizen, and being within the jurisdiction of the courts and the legislature, the defendant, the plaintiff in error, who voluntarily took upon himself the engaging in the controlled and restricted business in the State, did so as a citizen engaging in business in that State and not as a non-resident, and the non-resident liquor firms in the State of Minnesota were not involved in this jurisdiction or in this case, but only the individual who violated the law by engaging in the business or occupation in opposition to the laws of the State, in a commerce which this court has declared to be within the police powers of the State, and such commerce has not only been declared to be within the police power of the State as a general principle and by the legislative declaration of the authority in question, but such police powers have been strengthened and added to, and the principle more firmly established by the force and effect given the Wilson law.

Permit us to add here that all the authorities cited by counsel for plaintiff in error are either decisions rendered prior to the passage of the Wilson act or involve goods of commerce not within the police powers of the State, or were rendered under statutes entirely dissimilar to the statute in question, in that they referred to individual and particular sales and not to engaging in any business. All of the authorities cited, upon investigation, will be found subject to such criticism. We need only cite one, namely, the case referred to by counsel in his closing argument, to wit, *In re* Bergen, 115 Fed. Rep., 339.

Finally, it is almost needless to refer to the rulings of this court that in order to render a law unconstitutional the interference with the interstate commerce clause must be direct and not indirect.

See Hopkins *v.* U. S., 171 U. S., 591.
Sherlock *v.* Alling, 93 U. S., 99.
Ficklen *v.* Taxing District, *supra.*
Missouri K. & T. R. Co. *v.* Haber, 169 U. S., 913.

In addition to all this, times without number this court, beginning with the honored Chief Justice Marshall, has said that in order to declare a legislative act unconstitutional, it must be clearly and plainly established to be a plain and palpable violation of the constitution, Chief Justice Marshall saying, in the case of Plumley *v.* Mass., 155 U. S., 471—

"the rare and difficult scheme of one general government, whose action extends over the whole, but which possesses only certain enumerated powers not delegated to the Union, the judiciary of the United States should not strike down a legislative enactment of a State, especially if it has direct connection with the social order, the health and the morals of its people, unless such legislation plainly and palpably violates some right granted or secured by the National Constitution or encroaches upon the authority delegated to the United States for the attainment of objects of national concern."

"The court entertains a very strong, even conclusive presumption in favor of the validity of the said statute, enacted in good faith to protect the lives, health, and safety of its citizens."

Powell *v.* Penn., 127 U. S., 678.
Mugler *v.* Kansas, 123 U. S., 664.

To summarize, therefore, permit us to again state that the contention of the plaintiff in error should not be sustained, and the legislative act in question should not be declared void and of no effect, because:

1. The act is not a tax law or a tax upon goods of commerce, but is a license law.

2. Such license law is within the police powers of the State: Because of general principles and as held by this court from the beginning, where the jurisdiction of the State attaches to the person, as it does in this case, as well as to the goods.

The foregoing being established, there has arisen in this case, under the facts, acts done in furtherance of a prohibited sale within the jurisdiction of the State by a person within such State, and, secondly, such person came voluntarily within the limits of the State and engaged in a prohibited occupation; that is, prohibited without the payment of the license, and thus rendered himself amenable to the State laws, regardless of whether the orders which he was to fill upon his solicitation were to be obtained by him within the State or without the State; that therefore there was no interference with interstate commerce, no tax upon commerce, but a mere license required of a person who voluntarily engaged in a business in the State within the police powers of the State.

And, finally, there has not been shown to exist in this case any direct interference with interstate commerce, and no such plain and palpable violation of section 8 of article 1 of the Constitution of the United States as would permit this court to set aside and annul a legislative act made in furtherance of the welfare and well being of the people of the Commonwealth involved.

Again thanking the court for the gracious permission to file this additional brief, we respectfully submit the foregoing.

PHILO HALL,
Attorney General, South Dakota.
AUBREY LAWRENCE,
Assistant Attorney General.